

## **ATTORNEY AND PROFESSIONAL VISITS**

**(EFFECTIVE DATE: December 15, 2010)**

**Issue:** MDCR's policies regarding attorneys, not of record, accessing inmates. In assessing this, certain other duties surfaced which give rise to other actions as noted.

Safety and Security are the primary concerns of MDCR; therefore, as a condition of visiting an inmate all visitors shall be subject to a thorough search, upon entry or at any time, of his or her person and belongings for the purpose of ascertaining, if contraband is present or a breach in security has occurred,

### **DEFINITIONS:**

**1. REGULAR VISIT**

A visit between the inmate and the family, friends and/or associates of that inmate as listed on the Master Visitation List. A regular visit is conducted in a glass partitioned visiting room/booth.

**2. CONTACT VISIT**

A visit with an inmate in a barrier or partitioned free environment. No contact visiting is permitted for any inmate, except as granted by the Facility Supervisor or designee under extenuating circumstances.

**3. PROFESSIONAL VISIT**

A contact or non-contact visit, depending on the circumstances, between the inmate and clergy, attorney, parole/probation officer, physician, bail bondsmen, etc.

### **PROHIBITED ITEMS:**

1. Pursuant to our primary concern, the following items are prohibited from entering any facility to include, but not limited to:
  - Cell phones or any electronic devices\*;
  - Brief case, attaché, or similar objects;
  - Any item that could be used as a weapon as determined by staff (e.g., any metal, plastic, wooden items, etc.);
  - Personal mail to the inmate;
  - Pictures, unless legally relevant materials;
  - Anything that could be passed to an inmate unrelated to legally relevant materials;
  - Items such as money, highlighters, jewelry, matches, lighters, drugs, postage stamps, books, clothing, cigarettes and/or chewing gum are considered contraband and are strictly prohibited;
  - Items from a client's family are strictly prohibited from being given to an inmate;
  - Any items as determined by staff to be a safety or security concern.

## **PERMITTED ITEMS:**

**Legal materials (e.g., inmate pleadings and documents that have been filed with the court, drafts of pleadings to be submitted to the court which contain the inmate's name and/or case caption prominently displayed on the first page, photocopies of legal reference materials, etc.), file folder, writing instruments, etc.**

**\* Representatives of the Public Defender's Office have been granted limited authorization for the introduction and use of their Netbook computers only during bond hearings. The Netbook computers are subject to search and inspection by correctional staff upon entry. The representatives of the Public Defender's Office shall be responsible for safe keeping of all equipment (Netbook laptop computers) while inside the facility. Inmate access to or use of the Netbook Computer is strictly prohibited.**

## **ENTRY:**

1. Attorneys must be a member in good standing with the Florida Bar. Upon entry to the facility, the attorney shall provide a valid government issued picture identification and bar card. A search will be conducted of the Florida Bar's website to affirm the active status of the attorney. Attorneys must sign the log-in sheet prior to the inmate visit and sign-out at the completion of the visit. The link is located on the Florida Bar Association's website:

<https://www.floridabar.org/names.nsf/MESearch?OpenForm>

If an attorney is not a member of the Florida Bar and wishes to visit an inmate, he/she will have to provide a valid government issued picture identification and bar card from the state in which he/she practices law. A search will be conducted in the state where the attorney is authorized to determine if he/she is in good standing as a member of that state's bar association. A Florida Bar attorney in good standing must accompany the out of state bar member. The link is located on the American Bar Association website under Lawyer Regulation:

<http://www.abanet.org/cpr/regulation/directory.pdf>

2. All attorneys' interviews will be conducted in a private barrier free environment, if available, or in a regular glass partitioned visiting room/booth in an area to allow a degree of privacy.
  - a) If accompanied by the attorney of record, professional staff (e.g., associate counsels, investigators, interpreters, paralegals and legal secretaries) or other authorized professionals will be allowed to visit with the inmate. Professional staff upon entry to the facility shall be required to provide a valid government issued picture identification. No relative or social acquaintances of the inmate may be used in this capacity.
  - b) If the attorney of record is not present, the professional staff (e.g., associate counsels, investigators, interpreters, paralegals and legal secretaries) or other authorized professionals shall, 24 hours prior to the visit, submit a notarized letter of introduction addressed to the facility supervisor, which shall depict the following items:

- i. Attorney's letterhead and signature of the respective attorney;
  - ii. The full name, sex, birth date, race, driver's license number, and title/occupation (e.g., investigator, interpreter or legal secretary);
  - iii. The name of the individual inmate(s) with whom the attorney authorizes the professional staff to interview.
  - iv. **The facility supervisor or designee, after reviewing the letter, will stamp and/or write approved and/or disapproved on the document and a copy will be provided to the front booth officer. All letters of introduction over a year old will be purged and a new request must be submitted to the Facility Supervisor by the attorney of record for future professional staff visits.**
  - v. **Visitation will be denied if the letters fail to meet the above criteria.**
- c) A review of the inmate's visitation list shall also be conducted. If the professional staff is also listed on the inmate's visitation list, the visit shall be denied. If the attorney of record is present, the visit shall be conducted in a glass partitioned visiting room/booth.
  - d) Interview rooms cannot be reserved in advance for attorney interviews.
  - e) The inmate shall only be allowed a one hour attorney visit, twice per day, by an attorney, not listed as the attorney of record by the Clerk of Courts.
  - f) Staff shall query the inmate's case number in the Criminal Justice Information System (CJIS) to establish the identity of the attorney of record. If the inmate is a new arrestee, it is highly unlikely that the attorney of record has been entered in the system. If the attorney is not listed, a visit will be allowed pursuant to this directive. The passes will be placed in a folder designated for "Non-Listed" attorneys. This folder will be used to check the number of times the attorneys have been granted visitation for that day. All shift paperwork will be submitted to administration according to each facility's standard operating procedures.

#### **LIMITATION OR DENIAL OF PROFESSIONAL VISITS:**

Any act by an attorney or any person, who acts on behalf of the attorney or other authorized visitors, which violates MDCR visiting rules and regulations and/or which threatens the security, good order or discipline of an MDCR facility is grounds for limitation or denial of the visit.

In all cases of sustained inappropriate actions (i.e., false statements as to identity, inappropriate physical contact, criminal conduct, attempt or introduction of contraband) access to all MDCR facilities shall, at a minimum, be restricted to barrier visits for a minimum of one year. MDCR may refer the matter to the State Attorney's Office for criminal charges, the Florida Bar and/or to the state agency regulating the professional conduct of the professional visitor. The

professional visitor may appeal any limitation or denial of visits to the Director or designee. Appeal reviews are to be coordinated through the MDCR Legal Unit.

### **VISITS:**

Although the legal professional has access 24/7, visits after 10:00 pm should be kept to a minimum unless it is related to a newly booked client or trial preparation.

There are a limited number of private interview rooms. If these rooms are occupied, visits may take place in the visitation booth which will provide visual and/or telephone contact with the inmate through a glass partition.

All visitors shall be properly attired. Suggestive clothing of any kind is strictly prohibited. All visitors must wear covered shoes (e.g., no flip-flops, open sandals). No clothing of any sort worn by the visitor may be exchanged with or provided to the inmate. Persons not in compliance with the dress standards shall be denied entry.

To minimize the “wait time” for professional visits, the following times are considered the times in which it may take longer for an inmate to be brought to the visitation area. These access delays include meal times, shift change or any time where security related issues become evident. However, visitation should be specifically avoided, if possible, during the following times:

Morning	(6:00 am - 8:30 am)
Afternoon	(2:00 pm - 4:00 pm)
Evening	(10:00 pm - 12:00 am)

**The Facility Supervisor or designee shall make the final determination to grant, deny or cancel a visitation with an inmate and/or make exceptions according to the situation as demonstrated by an attorney.**

### **TELEPHONE ACCESS:**

Inmates have telephone access by outgoing collect telephone calls. Inmates are allowed telephone privileges during the following times:

Sunday - Thursday	(8:00 am - 11:00 pm)
Friday - Saturday/Holidays	(8:00 am - 2:00 am)

### **DO NOT RECORD LIST:**

All telephone calls are subject to monitoring and/or recording, **except calls to and from an attorney whose telephone numbers are listed in the MDCR’s Do Not Record List.** Attorneys **must** contact the MDCR Security Operations Unit of the Professional Compliance Division to ensure their current telephone numbers are listed in the Do Not Record List. The contact number is (786) 263-6500.

The Miami-Dade Corrections & Rehabilitation Department now offers the rules and procedures online for Professional visits at <http://MiamiDade.gov/Corrections>.